IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3553 of 2001

to

FIRST APPEALNo 3554 of 2001
With
CIVIL APPLICATION NO. 8859 & 8860 OF 2001

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

O N G C GENERAL MANAGER

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:

1. First Appeal No. 3553 of 2001

MR AJAY R MEHTA for Petitioner No. 1

MR. S.P. SEN, GOVERNMENT PLEADER for Respondent No. 1

MR MD VAKIL for Respondent No. 2

CORAM : MR.JUSTICE B.J.SHETHNA
and
MR.JUSTICE N.G.NANDI

Date of decision: 23/01/2002

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE B.J.SHETHNA)

1. Both, these appeals and civil applications are disposed of by this common judgment, as they are arising out of the impugned common judgment & award passed by Learned 5th Jt. Civil Judge (S.D.) Mehsana, in Land Acquisition Reference Case Nos. 513 & 514 of 1999. The judgment is delivered in main L.A.R. No. 514 of 1999.

2. There is temporary acquisition of the land of claimants for the purpose of ONGC project which are situated around village Anandpara, Taluka Kadi, district Mehsana. Special Land Acquisition Officer declared his award in Compensation Case No. 45/94 and determined the market value of the land in question and awarded rent at the rate of Rs.1.50 per Are per year and compensation for standing crops, trees etc. at the time of taking possession. Aggrieved by that award, the claimants filed references before the trial Court and claimed yearly rent of Rs.500/- per Are and also enhancement in compensation for standing crops, trees etc.

3. The claimant had deposed that, there were standing crops and trees etc. in the fields when the possession thereof were taken by the Corporation on 25-8-1994. The panchnama to that effect drawn on 25-8-1994 supports the case of the claimants. However, regarding market value of their land they were not able to produce any cogent evidence that the yearly rent would be Rs.500/- per Are. However, reliance was placed by them upon the judgment of the trial Court at Exhibit-14 delivered in another case in respect of group of Land Acquisition Case Nos. 2834 to 2836 of 1993 of village Jamnapur. It has come on record that the border of village Jamnapur and Anandpara is common. Keeping in mind this, Learned Judge relying upon previous judgment at Exhibit-14 came to the conclusion that the yearly rent fixed by the Special Land Acquisition Officer at the rate of Rs.150/- per Are, i.e. Rs.1.50 per sq. meter which is grossly inadequate. Therefore, he enhanced the same to Rs.300/- per Are, i.e. Rs.3.00 per sq. meter of the acquired land. Accordingly he passed the award in favour of the claimants by the impugned judgment & award dated 8-12-1999, which is challenged in these appeals.

4. Learned counsel Shri. Ajay Mehta for the appellants vehemently submitted that, Learned Judge committed an error in relying upon previous judgment at Exhibit-14 delivered in L.A. Reference Nos. 2834 to 2836 of 1993. He submitted that, in that cases the claimants led definite evidence regarding their income and accordingly Rs.300/- per Are was fixed, whereas in this case Learned Judge himself found that, claimants were not able to lead any cogent evidence in support of their case. It is true that, in the instant case the claimants have not led any cogent evidence, but there is a judgment at Exhibit-14 in support of their case regarding yearly rent of neighbouring villages, the boundary between the two villages was the same. It may be stated that the judgment & award delivered in that case was challenged before this Court by way of First Appeal Nos. 1307 to 1309 of 2000 which came to be dismissed by the Division Bench of this Court (Coram: B.C. Patel & Sharad D. Dave, JJ) on 20-9-2001. However, learned counsel Shri. Mehta tried to distinguish the judgment of this Court in aforesaid cases by submitting that, in that case there was a definite evidence led by the claimants, whereas in the instant case the claimants have failed to produce any evidence. We are afraid, we cannot accept this submission. As stated earlier, in the instant case the claimants may not be able to produce any cogent evidence but there is an evidence in the form of Exhibit-14 delivered in another case and that can very well be used as basis for awarding just compensation. When the lands of the claimants are adjacent to lands of others in whose favour the Reference Court enhanced the claim and the same is confirmed by this Court by dismissing the appeals filed against the judgment & award, then, we are bound by the said Judgment.

5. Under the circumstances, in our considered opinion, both these appeals are squarely covered by the aforesaid judgment of this Court dated 20-9-2001 delivered in First Appeal No. 1307 to 1309 of 2000. Accordingly both these appeals fail and we hereby dismiss the same.

6. Civil Application No. 8859 and 8860 of 2001 stand dismissed in view of dismissal of main first appeals. Ad-interim relief granted in Civil Applications stand vacated. No order as to costs.

Dt: 23-1-2002 (B.J. Shethna, J)

(N.G. Nandi, J)

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